

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

|   |   |  |                      |
|---|---|--|----------------------|
| (1) DEPARTMENT<br>Planning and Building   | (2) MEETING DATE<br>2/24/2015               | (3) CONTACT/PHONE<br>Xzandrea Fowler, Planner / (805) 781-1172                             |                      |
| (4) SUBJECT<br>Discussion and consideration of the development of an Agricultural Water Conservation Offset (Ag Offset) program. All Districts.   |   |  |                      |
| (5) RECOMMENDED ACTION<br>It is recommended that the Board consider providing further direction regarding the development of an Agricultural Water Conservation Offset (Ag Offset) program. |   |  |                      |
| (6) FUNDING SOURCE(S)<br>Department Budget  | (7) CURRENT YEAR FINANCIAL IMPACT<br>\$0.00 | (8) ANNUAL FINANCIAL IMPACT<br>\$0.00  | (9) BUDGETED?<br>Yes |
| (10) AGENDA PLACEMENT<br>{ } Consent    { } Presentation    { } Hearing (Time Est. ____ ) <b>{X}</b> Board Business (Time Est. <u>60 minutes</u> )  |   |  |                      |
| (11) EXECUTED DOCUMENTS<br>{ } Resolutions    { } Contracts    { } Ordinances <b>{X}</b> N/A  |   |  |                      |
| (12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)<br>N/A  |   | (13) BUDGET ADJUSTMENT REQUIRED?<br>BAR ID Number:<br>{ } 4/5 Vote Required <b>{X}</b> N/A |                      |
| (14) LOCATION MAP<br>N/A  | (15) BUSINESS IMPACT STATEMENT?<br>No       | (16) AGENDA ITEM HISTORY<br><b>{X}</b> N/A    Date: <u>3/4/14, 5/20/14, &amp; 2/3/15</u>   |                      |
| (17) ADMINISTRATIVE OFFICE REVIEW<br>Lisa Howe  |   |  |                      |
| (18) SUPERVISOR DISTRICT(S)<br>All Districts  |   |  |                      |

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Xzandrea Fowler, Planner

VIA: Trevor Keith, Division Manger

DATE: 2/24/2015

SUBJECT: Discussion and consideration of the development of an Agricultural Water Conservation Offset (Ag Offset) program. All Districts.

## **RECOMMENDATION**

It is recommended that the Board consider providing further direction regarding the development of an Agricultural Water Conservation Offset (Ag Offset) program.

## **DISCUSSION**

San Luis Obispo County is in the midst of an “exceptional drought” that has lowered water levels in groundwater basins and surface lakes and reservoirs throughout the County. An “exceptional drought” is characterized by the United States Department of Agriculture (USDA) and the National Drought Mitigation center as having exceptional and widespread crop and pasture losses, shortages of water in reservoirs, streams and wells creating water emergencies. In response, your Board declared three groundwater basins, Nipomo Mesa (part of Santa Maria Groundwater Basin), the Los Osos Groundwater Basin, and the Paso Robles Groundwater Basin (PRGWB), at Level of Severity (LOS) III, which indicates that groundwater demand has met or exceeded the dependable supply.

The objective of the development and implementation of Countywide Water Conservation Ordinance (Countywide Water Program) is to halt increase in groundwater extraction in areas that have been certified LOS III; provide a mechanism to allow new development and new or altered irrigated agriculture to proceed in certified LOS III areas, subject to the requirements of the County General Plan and County Code, in a manner that fully offsets projected water use; and to reduce wasteful use of water in the county.

## **Background**

The Countywide Water Conservation Ordinance (Countywide Water Program) includes amendments to the County General Plan and County Code that will affect water use in both new and existing development, as well as agricultural operations. Implementation of the Countywide Water Program would be primarily achieved through two components, the Water Neutral New Development (WNND) program and the Water Waste Prevention (WWP) program.

The WNND program would apply only in areas of the County that have been certified as being at Level of Severity (LOS) III. The WNND program is intended to serve as an interim measure to halt increase in groundwater extraction and the lowering of groundwater levels in certified LOS III groundwater basins. An Agricultural Water Conservation Offset (Ag Offset) program is one of the proposed implementation tools for the WNND program.

The Ag Offset program would require that new development and new or more intensively irrigated agriculture offset new water use at a minimum 1:1 ratio in certified Level of Severity (LOS) III groundwater basins. The Ag Offset program would implement the WNND program by effecting, enhancing, altering, and/or extending the existing water neutral new development programs in place for the Los Osos Groundwater Basin, the Nipomo Mesa Management Area (NMMA), and

areas of the Paso Robles Groundwater Basin (PRGWB) that are subject to the PRGWB Urgency Ordinance, which is set to expire on August 27, 2015.

### **Board Direction**

On March 4, 2014, your Board authorized staff to proceed with the processing of various General Plan and County Code amendments to develop and implement a County Water Conservation Ordinance (Countywide Water Program), consisting of New Landscape requirements, Retrofit-on-Sale, Water Waste Prevention, and Water Neutral New Development. The timeframe authorized for completion was 6 to 12 months.

On May 20, 2014, your Board directed staff to include incentive based programs that could result in reductions of outdoor water use to the previously authorized processing of the County Water Conservation Ordinance (Countywide Water Program).

On October 28, 2014, your Board reviewed the AG Offset program for the PRGWB developed by the Upper Salinas-Las Tablas Resource Conservation District (RCD). At the meeting, concerns were raised regarding specific Ag Offset program details, such as, the use of deed restrictions for properties participating in the program, and the use of certain well impact analysis methods. Your Board and directed staff to continue (to a date uncertain) the establishment of an Ag Offset program for new irrigated agriculture in the PRGWB, and also directed staff to have further discussions with the RCD on this matter; evaluate legal issues raised during the hearing; gather more information on the model update; and consider the consequences of Sustainable Groundwater Management Act (Pavley-Dickinson) rules and regulations as they start to unfold.

On February 3, 2015, your Board gave direction on the scope of specific program components associated with the development and implementation of a Countywide Water Program. During the discussion, your Board directed staff to not pursue further development of an Ag Offset program as a component of the Countywide Water Program.

On February 10, 2015, your Board directed staff to return with an unrestricted discussion regarding development of an Ag Offset program.

### **Agricultural Water Conservation Offset (Ag Offset) Program**

The Agricultural Water Conservation Offset (Ag Offset) program is the implementation tool for the agricultural component of the WNND program. The intent of an Ag Offset program is to offset new water use due to crop conversions, new irrigated agriculture, increased crop density, and the outdoor use component of rural groundwater use that have not been covered by new development water offset programs already in place. The following are the major Ag Offset program steps:

1. Determine water amount currently used
2. Determine acreage and water use of new crops
3. Proximity analysis required on a case by case basis
4. Evaluate drawdown impacts on neighboring irrigation and domestic wells to demonstrate that new groundwater pumping will not have the effect of lowering well levels in the area of the new pumping
5. Issue Offset Clearance and conduct third party monitoring. As part of the Offset Clearance, deed restrictions and property owner agreements will be recorded

To implement a portion of the Paso Robles Groundwater Basin (PRGWB) Urgency Ordinance, the Upper Salinas-Las Tablas Resource Conservation District (RCD) developed an Agricultural Water Conservation Offset (Ag Offset) program that covers new development and new irrigated agriculture overlying the Paso Robles Groundwater Basin. The Ag Offset program was also intended to be used as an implementation tool for the Water Neutral New Development component of the Countywide Water Conservation Ordinance (Countywide Water Program), which could be applied to other certified LOS III areas.

### **Environmental Review Status**

An Environmental Impact Report (EIR) is currently being prepared to evaluate the impacts associated with the implementation of the specific program components that are being proposed for implementation of the Countywide Water Conservation Ordinance (Countywide Water Program). The release of the Draft EIR has been postponed to allow for

further Board direction. Based on the expiration of the PRGWB Urgency Ordinance on August 27, 2015, the Draft EIR is scheduled to be released in early March 2015. However, the final contents of the Draft EIR are contingent upon any subsequent direction from the Board. Any change in the current Agricultural Water Conservation Offset (Ag Offset) program will be covered as an Alternative in the EIR. This needs to be finalized by February 24, 2015.

Due to the limited timeframe, the public review period will be 45-days, the minimum legal requirement. No request for extension of the public review period can be accommodated to meet the expiration deadline. In addition, a Special Meeting of the Planning Commission will be required to allow them adequate time to review all proposed amendments and Countywide Water Program details.

### **Ag Offset Program Development/Implementation Options**

Below is a summary of the Agricultural Water Conservation Offset (Ag Offset) program development options, ranging from a permanent or provisional program to no program.

#### Permanent Ag Offset Program Options

##### **Option 1: PRGWB RCD developed program (found in Exhibit A)**

This option was presented to your Board on October 28, 2014. This option would only apply to the PRGWB because there has been recognition of significantly lower demand and/or opportunities for new irrigated agricultural plantings within the other certified LOS III groundwater basins.

##### **Option 2: Countywide RCD developed program**

This option differs from Option "1" in that it would need some modifications to enable the application of the program in all LOS III groundwater basins, including Los Osos Groundwater Basin and Nipomo Mesa Management Area. This option would need additional consultant assistance.

##### **Option 3: Simplified PRGWB RCD developed program**

This option differs from Option "1" in that implementation would not require complex analyses, such as well impact analysis or proximity analysis, or any annual reporting. This option addresses many of the issues that were raised by the Board at the meeting on October 28, 2014 and simplifies the implementation of the program for property owners and staff. This option may need additional consultant assistance.

##### **Option 4: Simplified Countywide RCD developed program**

This option differs from Option "2" in that implementation would not require complex analyses, such as well impact analysis or proximity analysis, or any annual reporting. This option addresses many of the issues that were raised by the Board at the meeting on October 28, 2014 and simplifies the implementation of the program for property owners and staff. This program would need some modifications to enable the application of the program in all LOS III groundwater basins including Los Osos Groundwater Basin and Nipomo Mesa Management Area. This option would need additional consultant assistance.

#### Provisional Ag Offset Program Options

##### **Option 5: Sunset Provisions for Ag Offset Program Options 1, 2, 3 or 4**

Sunset language would be developed in order to ensure that the requirement for an Ag Offset program is suspended upon triggers related to several factors based upon Level of Severity (LOS) of the basin or active sustainable management of the basin. Sunset language could be included as General Plan policies and /or implementation strategies as well as deed restrictions or covenants to explain when and how the Ag Offset program provisions would expire (automatically or by Board consideration). The following concepts are provided to assist in the discussion and further Board direction:

- Develop sunset language that allows an Ag Offset program to expire upon declaration of an end to emergency drought conditions by the Board; and/or
- Develop sunset language that allows an Ag Offset program to expire upon the Board certifying a LOS II or below for a basin; and/or
- Develop sunset language that allows an Ag Offset program to expire upon the development, adoption, and implementation of a Groundwater Sustainability Plan (GSP) by a duly established Groundwater Sustainability

Agency (GSA), that has been certified of approved by Department of Water Resources (DWR), that does not rely on the land use controls established through the Ag Offset program for future groundwater sustainability; and/or

- Develop sunset language that allows an Ag Offset program to expire upon the request of a duly established Groundwater Sustainability Agency (GSA) after the development, adoption, and implementation of a Groundwater Sustainability Plan (GSP).

Groundwater Sustainability Plans (GSPs) are exempt from State CEQA review. It is currently estimated that the timeframe for development and adoption of a GSP could be 5-7 years, and implementation of a GSP could take 20 years. It should be noted, if the option is the Ag Offset program provisions would expire by Board consideration, it would be a discretionary project and subject to environmental review.

#### **Option 6: Repeal Provision for Ag Offset Program Options 1, 2, 3 or 4**

Repeal language could be developed in order to ensure that the requirement for an Ag Offset program could be considered for repeal by a vote of the Board upon triggers related to several factors based upon Level of Severity (LOS) of the basin or active sustainable management of the basin. Repeal language could be included as General Plan policies and /or implementation strategies as well as deed restrictions or covenants to explain when and how the Ag Offset program provisions would expire. The following concepts are provided to assist in the discussion and further Board direction:

- Develop repeal language that allows an Ag Offset program to be repealed upon declaration of an end to emergency drought conditions by the Board; and/or
- Develop repeal language that allows an Ag Offset program to be repealed upon the Board certifying a LOS II or below for a basin; and/or
- Develop repeal language that allows an Ag Offset program to be repealed upon the development, adoption, and implementation of a Groundwater Sustainability Plan (GSP) by a duly established Groundwater Sustainability Agency (GSA) that does not rely on the land use controls established through the Ag Offset program for future groundwater sustainability; and/or
- Develop repeal language that allows an Ag Offset program to be repealed upon the request of a duly established Groundwater Sustainability Agency (GSA) after the development, adoption, and implementation of a Groundwater Sustainability Plan (GSP).

It should be noted that any repeal of an Ag Offset program would be a discretionary project and subject to environmental review.

#### **Option 7: No Ag Offset Program**

This option is your Board's direction from February 3, 2015. Following the expiration of the PRGWB Urgency Ordinance on August 27, 2015, Option "7" would impose no requirements for offsets of new irrigated agricultural plantings anywhere in the County, regardless of the identified LOS.

If there is no additional direction from your Board on development and implementation of an Ag Offset program to offset new water use due to crop conversions, new irrigated agriculture, increased crop density, or the outdoor use component of rural groundwater use, the interim program will no longer be in effect once the PRGWB Urgency Ordinance expires.

#### **OTHER AGENCY INVOLVEMENT/IMPACT**

Depending on the direction of the Board regarding the development of an Ag Offset component for the Countywide Water Program, staff will consult, collaborate and coordinate with County Counsel, Public Works, Agriculture Department, Environmental Health, water providers and other interested organizations and agencies.

#### **FINANCIAL CONSIDERATIONS**

Depending on what direction is given from your Board on the Countywide Ag Offset program, additional consultant assistance for further development and implementation, may be required.

## **RESULTS**

Discussion with the Board will provide staff with direction to either: 1) continue to not commit staff time and resources to the development of an Ag Offset program, or 2) commit staff time and resources to the development of an Ag Offset program and provide key program framework direction.

## **ATTACHMENTS**

1. Exhibit A - Agricultural Water Offset Program